

2009 DRAFTING REQUEST

Bill

Received: **01/21/2009**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-1923**

By/Representing: **Hynek**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - 1st class cities**
Local Gov't - bonding

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Hynek, BB0501 -

Topic:

Populous city pension obligation bonding

Instructions:

See attached. Authorize city of Milwaukee to issue pension obligation bonds like Milwaukee may do under 2007 WI Act 115.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/22/2009	wjackson 01/22/2009		_____			Local
/1			rschluet 01/22/2009	_____	cduerst 01/22/2009		Local
/2	mshovers 02/03/2009	kfollett 02/03/2009	rschluet 02/03/2009	_____	lparisi 02/03/2009		

FE Sent For:

<END>

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12 ME 5 2/3/09

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11 MES 1/22/09

[Handwritten signatures and initials over the Drafting History table]

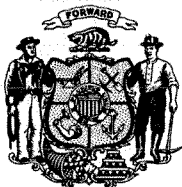
FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Pension Obligation Bonding
- Tracking Code: *BB 0501*
- SBO team: Tax, Transportation and Budget Development
- SBO analyst: Sara Hynek
 - Phone: 266-1923
 - Email: sara.hynek@wisconsin.gov
- Agency acronym: None
- Agency number: None
- Priority (Low, Medium, High): Medium

Intent: Permit the City of Milwaukee to issue appropriation bonds on a one-time basis to pay for unfunded pension obligations. This proposal would be analogous to SB 366 from the last legislative session, which allowed Milwaukee County to issue such bonds.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1693/2

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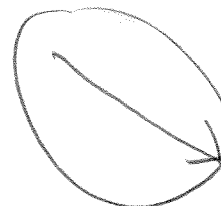
WLj

hmr

DOA:.....Hynek, BB0501 - Populous city pension obligation bonding

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-NOTE



1

AN ACT ...; relating to: ???

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

(END)

2007 SENATE BILL 366

December 21, 2007 - Introduced by Senators COGGS, TAYLOR, DARLING, PLALE and LAZICH, cosponsored by Representatives STONE, HONADEL, YOUNG, ZEPNICK, FIELDS, SINICKI, A. WILLIAMS, BALLWEG, HAHN, TURNER and VOS. Referred to Joint Survey Committee on Retirement Systems.

do not gen

- 1 **AN ACT to amend** 59.605 (1) (a), 67.01 (9) (intro.), 67.04 (5) (b) 4. and 67.12 (12)
 2 (a); and **to create** 59.85, 59.86, 59.87, 66.0602 (3) (d) 3., 66.0603 (1m) (e),
 3 66.0603 (5) and 67.045 (1) (g) of the statutes; **relating to:** unfunded pension
 4 liability financing in populous counties and membership on the pension study
 5 committee. *1st class cities*

Analysis by the Legislative Reference Bureau

This bill authorizes a county with a population of 500,000 or more (currently only Milwaukee County) to issue appropriation bonds on a one-time basis, other than refunding bonds, to pay all or any part of the county's unfunded prior service liability with respect to an employee retirement system of the county. "Appropriation bonds" are defined as any bond, note, or other obligation of a county issued as provided in the bill to evidence the county's obligation to repay borrowed money that is payable from various sources, including the following:

1. Moneys annually appropriated by the county for debt service due with respect to the appropriation bonds.
2. Proceeds of the sale of the appropriation bonds.
3. Investment earnings on the items listed above.

Before the county may issue appropriation bonds, however, the county must enact an ordinance to implement a five-year strategic and financial plan related to the payment of unfunded employee retirement benefits. The financial plan shall provide that future annual pension liabilities are funded on a current basis, and the

head
↓
LOCAL
GOVERNMENT

city

city

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1st class city
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SENATE BILL 366

financial plan must contain quantifiable benchmarks to measure compliance with the plan. Annually, the county board must report to the legislature, the Department of Revenue (DOR), the Department of Administration, and the governor on a number of issues related to the appropriation bonds, including the county's progress in meeting the benchmarks, whether the county fully funds the normal cost contribution for its employee retirement system and the amount that the actuary determines is the county's required contribution to that system. If the county does not fully fund the lower of either the required cost contribution for a particular year or the normal cost for that year, DOR must reduce and withhold from the county's shared revenue payments the difference between its required cost contribution and the amount the county actually contributes to the system for that year. DOR must deposit the withheld amount into the county's employee retirement system.

The bill states that a populous county is not generally liable for appropriation bonds, and appropriation bonds are not a debt of the county for any purpose whatsoever. Appropriation bonds, including the principal and interest payments, are payable only from amounts that the county board may, from year to year, appropriate.

For further information see the **local** fiscal estimate, which will be printed as an appendix to this bill.

A similar statute applies to a county with a population of 500,000 or more (presently only Milwaukee County)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.605 (1) (a) of the statutes is amended to read:

59.605 (1) (a) "Debt levy" means the county purpose levy for debt service on loans under subch. II of ch. 24, bonds issued under s. 67.05 and, promissory notes issued under s. 67.12 (12), and appropriation bonds issued under s. 59.85, less any revenues that abate the levy.

SECTION 2. 59.85 of the statutes is created to read:

59.85 Appropriation bonds for payment of employee retirement system liability in populous counties. (1) DEFINITIONS. In this section:

(a) "Appropriation bond" means a bond issued by a county to evidence its obligation to repay a certain amount of borrowed money that is payable from all of the following:

SENATE BILL 366

1 1. Moneys annually appropriated by law for debt service due with respect to
2 such appropriation bond in that year.

3 2. Proceeds of the sale of such appropriation bonds.

4 3. Payments received for that purpose under agreements and ancillary
5 arrangements described in s. ~~59.86~~ 620621

6 4. Investment earnings on amounts in subds. 1. to 3.

7 (b) "Board" means the county board of supervisors in any county.

8 (b) (c) "Bond" means any bond, note, or other obligation of a ^{city} ~~county~~ issued under
9 this section. (c) ~~city~~ means a 1st class city
10 ~~Common council~~ means the common council of a city

11 (d) "County" means any county having a population of 500,000 or more.

12 (e) "Refunding bond" means an appropriation bond issued to fund or refund all
13 or any part of one or more outstanding pension-related bonds.

14 (1m) LEGISLATIVE FINDING AND DETERMINATION. Recognizing that a ^{city} ~~county~~, by
15 prepaying part or all of the ~~county's~~ ^{city's} unfunded prior service liability with respect to
16 an employee retirement system of the ~~county~~ ^{city}, may reduce its costs and better ensure
17 the timely and full payment of retirement benefits to participants and their
18 beneficiaries under the employee retirement system, the legislature finds and
19 determines that it is in the public interest for the ~~county~~ ^{city} to issue appropriation bonds
20 to obtain proceeds to pay its unfunded prior service liability. common council

21 (2) AUTHORIZATION OF APPROPRIATION BONDS. (a) A ~~board~~ ^{city} shall have all powers
22 necessary and convenient to carry out its duties, and to exercise its authority, under
23 this section.

24 (b) Subject to pars. (c) and (d), a ~~county~~ ^{city} may issue appropriation bonds under
25 this section to pay all or any part of the ~~county's~~ ^{city's} unfunded prior service liability with
respect to an employee retirement system of the ~~county~~ ^{city}, or to fund or refund

SENATE BILL 366

SECTION 2

1 outstanding appropriation bonds issued under this section. A ~~county~~^{city} may use
2 proceeds of appropriation bonds to pay issuance or administrative expenses, to make
3 deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit
4 enhancement, to make payments under other agreements entered into under s.
5 ~~59.86~~⁶²⁰⁶²¹, or to make deposits to stabilization funds established under s. ~~59.87~~⁶²⁰⁶²².

6 (c) Other than refunding bonds issued under sub. (6), all bonds must be issued
7 simultaneously.

8 (d) 1. Before a ~~county~~^{city} may issue appropriation bonds under par. (b), its ~~board~~^{common council}
9 shall enact an ordinance that establishes a 5-year strategic and financial plan
10 related to the payment of all or any part of the ~~county's~~^{city's} unfunded prior service
11 liability with respect to an employee retirement system of the ~~county~~^{city}. The strategic
12 and financial plan shall provide that future annual pension liabilities are funded on
13 a current basis. The strategic and financial plan shall contain quantifiable
14 benchmarks to measure compliance with the plan. The ~~board~~ shall make a
15 determination that the ordinance meets the requirements of this subdivision and,
16 absent manifest error, the ~~board's~~^{common council's} determination shall be conclusive. The ~~board~~ shall
17 submit to the governor and to the chief clerk of each house of the legislature, for
18 distribution to the legislature under s. 13.172 (2), a copy of the strategic and financial
19 plan.

20 2. Annually, the ~~county~~^{city} shall submit to the governor, the department of
21 revenue, and the department of administration, and to the chief clerk of each house
22 of the legislature, for distribution to the legislature under s. 13.172 (2), a report that
23 includes all of the following:

24 a. The ~~county's~~^{city's} progress in meeting the benchmarks in the strategic and
25 financial plan.

SENATE BILL 366

- 1 b. Any proposed modifications to the plan. 620622
- 2 c. The status of any stabilization fund that is established under s. 59.87(3).
- 3 d. The most current actuarial report related to the ~~county's~~ ^{city's} employee
- 4 retirement system.
- 5 e. The amount, if any, by which the ~~county's~~ ^{city's} contributions to the employee
- 6 retirement system for the prior year is less than the normal cost contribution for that
- 7 year as specified in the initial actuarial report for the ~~county's~~ ^{city's} employee retirement
- 8 system for that year.
- 9 f. The amount that the actuary determines is the ~~county's~~ ^{city's} required contribution
- 10 to the employee retirement system for that year.
- 11 **(2m) PENALTY FOR INADEQUATE CONTRIBUTION.** If the ~~county's~~ ^{city's} contributions to
- 12 the employee retirement system for the prior year is less than the lower of the
- 13 required contribution for that year, as described in sub. (2) (d) 2. f., or the normal cost
- 14 for that year, the department of revenue shall reduce and withhold the amount of the
- 15 shared revenue payments to the ~~county~~ ^{city} under subch. I of ch. 79, in the following year,
- 16 by an amount equal to the difference between the required cost contribution for that
- 17 prior year and the ~~county's~~ ^{city's} actual contribution in that prior year. The department
- 18 of revenue shall deposit the amount of the reduced and withheld shared revenue
- 19 payment into the ~~county's~~ ^{city's} employee retirement system.
- 20 **(3) TERMS.** (a) A ~~county~~ ^{city} may borrow moneys and issue appropriation bonds in
- 21 evidence of the borrowing pursuant to one or more written authorizing resolutions
- 22 under sub. (4). Unless otherwise provided in an authorizing resolution, the ~~county~~ ^{city}
- 23 may issue appropriation bonds at any time, in any specific amounts, at any rates of
- 24 interest, for any term, payable at any intervals, at any place, in any manner, and
- 25 having any other terms or conditions that the ~~board~~ ^{Common Council} considers necessary or desirable.

SENATE BILL 366*Common Council***SECTION 2**

1 Appropriation bonds may bear interest at variable or fixed rates, bear no interest,
2 or bear interest payable only at maturity or upon redemption prior to maturity.

3 (b) The ~~board~~ may authorize appropriation bonds having any provisions for
4 prepayment the ~~board~~ considers necessary or desirable, including the payment of
5 any premium.

6 (c) Interest shall cease to accrue on an appropriation bond on the date that the
7 appropriation bond becomes due for payment if payment is made or duly provided
8 for.

9 (d) All moneys borrowed by a ~~county~~ *city* that is evidenced by appropriation bonds
10 issued under this section shall be lawful money of the United States, and all
11 appropriation bonds shall be payable in such money.

12 (e) All appropriation bonds owned or held by a fund of the ~~county~~ *city* are
13 outstanding in all respects, and the ~~board~~ or other governing body controlling the
14 fund shall have the same rights with respect to an appropriation bond as a private
15 party, but if any sinking fund acquires appropriation bonds that gave rise to such
16 fund, the appropriation bonds are considered paid for all purposes and no longer
17 outstanding and shall be canceled as provided in sub. (7) (d).

18 (f) A ~~county~~ *city* shall not be generally liable on appropriation bonds, and
19 appropriation bonds shall not be a debt of the ~~county~~ *city* for any purpose whatsoever.
20 Appropriation bonds, including the principal thereof and interest thereon, shall be
21 payable only from amounts that the ~~board~~ may, from year to year, appropriate for the
22 payment thereof.

23 (4) PROCEDURES. (a) No appropriation bonds may be issued by a ~~county~~ *city* unless
24 the issuance is pursuant to a written authorizing resolution adopted by a majority
25 of a quorum of the ~~board~~. The resolution may be in the form of a resolution or trust

SENATE BILL 366

1 indenture, and shall set forth the aggregate principal amount of appropriation bonds
 2 authorized thereby, the manner of their sale, and the form and terms thereof. The
 3 resolution or trust indenture may establish such funds and accounts, including a
 ④ reserve fund, as the ^{Common Council} ~~board~~ determines.

5 (b) Appropriation bonds may be sold at either public or private sale and may
 ⑥ be sold at any price or percentage of par value. All appropriation bonds sold at ^{Public} ~~public~~
 7 sale shall be noticed as provided in the authorizing resolution. Any bid received at
 ⑧ ^{Public} ~~public~~ sale may be rejected. ^{Common Council}

9 (5) FORM. (a) As determined by the ^{board} ~~board~~, appropriation bonds may be issued
 10 in book-entry form or in certificated form. Notwithstanding s. 403.104 (1), every
 11 evidence of appropriation bond is a negotiable instrument.

12 (b) Every appropriation bond shall be executed in the name of and for the
 13 ^{city} ~~county~~ by the ^{chairperson of the board} ~~chairperson of the board~~ and ^{city} ~~county~~ clerk, and shall be sealed with the
 14 seal of the ^{city} ~~county~~, if any. Facsimile signatures of either officer may be imprinted in
 15 lieu of manual signatures, but the signature of at least one such officer shall be
 16 manual. An appropriation bond bearing the manual or facsimile signature of a
 17 person in office at the same time the signature was signed or imprinted shall be fully
 18 valid notwithstanding that before or after the delivery of such appropriation bond
 19 the person ceased to hold such office.

→ 20 (c) Every appropriation bond shall be dated not later than the date it is issued,
 21 shall contain a reference by date to the appropriate authorizing resolution, shall
 22 state the limitation established in sub. (3) (f), and shall be in accordance with the
 23 appropriate authorizing resolution in all respects.

★★★★NOTE: Is [✓] president of the
common council OK? Do you want it to
be the mayor?

SENATE BILL 366*Common Council***SECTION 2**

1 (d) An appropriation bond shall be substantially in such form and contain such
2 statements or terms as determined by the ~~board~~, and may not conflict with law or
3 with the appropriate authorizing resolution.

4 **(6) REFUNDING BONDS.** (a) 1. A ~~board~~ may authorize the issuance of refunding
5 appropriation bonds. Refunding appropriation bonds may be issued, subject to any
6 contract rights vested in owners of the appropriation bonds being refunded, to refund
7 all or any part of one or more issues of appropriation bonds notwithstanding that the
8 appropriation bonds may have been issued at different times or issues of general
9 obligation promissory notes under s. 67.12 (12) were issued to pay unfunded prior
10 service liability with respect to an employee retirement system. The principal
11 amount of the refunding appropriation bonds may not exceed the sum of: the
12 principal amount of the appropriation bonds or general obligation promissory notes
13 being refunded; applicable redemption premiums; unpaid interest on the refunded
14 appropriation bonds or general obligation promissory notes to the date of delivery or
15 exchange of the refunding appropriation bonds; in the event the proceeds are to be
16 deposited in trust as provided in par. (c), interest to accrue on the appropriation
17 bonds or general obligation promissory notes to be refunded from the date of delivery
18 to the date of maturity or to the redemption date selected by the ~~board~~, whichever
19 is earlier; and the expenses incurred in the issuance of the refunding appropriation
20 bonds and the payment of the refunded appropriation bonds or general obligation
21 promissory notes.

22 2. A ~~board~~ may authorize the issuance of general obligation promissory notes
23 under s. 67.12 (12) (a) to refund appropriation bonds, notwithstanding s. 67.01 (9)
24 (intro.).

SENATE BILL 366

Common Council

1 (b) If a ~~board~~ determines to exchange refunding appropriation bonds, they may
2 be exchanged privately for, and in payment and discharge of, any of the outstanding
3 appropriation bonds being refunded. Refunding appropriation bonds may be
4 exchanged for such principal amount of the appropriation bonds being exchanged
5 therefor as may be determined by the ~~board~~ to be necessary or desirable. The owners
6 of the appropriation bonds being refunded who elect to exchange need not pay
7 accrued interest on the refunding appropriation bonds if and to the extent that
8 interest is accrued and unpaid on the appropriation bonds being refunded and to be
9 surrendered. If any of the appropriation bonds to be refunded are to be called for
10 redemption, the ~~board~~ shall determine which redemption dates are to be used, if
11 more than one date is applicable and shall, prior to the issuance of the refunding
12 appropriation bonds, provide for notice of redemption to be given in the manner and
13 at the times required by the resolution authorizing the appropriation bonds to be
14 refunded.

15 (c) 1. The principal proceeds from the sale of any refunding appropriation bonds
16 shall be applied either to the immediate payment and retirement of the
17 appropriation bonds or general obligation promissory notes being refunded or, if the
18 bonds or general obligation promissory notes have not matured and are not presently
19 redeemable, to the creation of a trust for, and shall be pledged to the payment of, the
20 appropriation bonds or general obligation promissory notes being refunded.

21 2. If a trust is created, a separate deposit shall be made for each issue of
22 appropriation bonds or general obligation promissory notes being refunded. Each
23 deposit shall be with a bank or trust company authorized by the laws of the United
24 States or of a state in which it is located to conduct banking or trust company
25 business. If the total amount of any deposit, including moneys other than sale

SENATE BILL 366**SECTION 2**

1 proceeds but legally available for such purpose, is less than the principal amount of
2 the appropriation bonds or general obligation promissory notes being refunded and
3 for the payment of which the deposit has been created and pledged, together with
4 applicable redemption premiums and interest accrued and to accrue to maturity or
5 to the date of redemption, then the application of the sale proceeds shall be legally
6 sufficient only if the moneys deposited are invested in securities issued by the United
7 States or one of its agencies, or securities fully guaranteed by the United States, and
8 only if the principal amount of the securities at maturity and the income therefrom
9 to maturity will be sufficient and available, without the need for any further
10 investment or reinvestment, to pay at maturity or upon redemption the principal
11 amount of the appropriation bonds or general obligation promissory notes being
12 refunded together with applicable redemption premiums and interest accrued and
13 to accrue to maturity or to the date of redemption. The income from the principal
14 proceeds of the securities shall be applied solely to the payment of the principal of
15 and interest and redemption premiums on the appropriation bonds or general
16 obligation promissory notes being refunded, but provision may be made for the
17 pledging and disposition of any surplus.

18 3. Nothing in this paragraph may be construed as a limitation on the duration
19 of any deposit in trust for the retirement of appropriation bonds or general obligation
20 promissory notes being refunded that have not matured and that are not presently
21 redeemable. Nothing in this paragraph may be constructed to prohibit reinvestment
22 of the income of a trust if the reinvestments will mature at such times that sufficient
23 moneys will be available to pay interest, applicable premiums, and principal on the
24 appropriation bonds or general obligation promissory notes being refunded.

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city
Common Council

(7) FISCAL REGULATIONS. (a) All appropriation bonds shall be registered by the ~~county~~ clerk or ~~county~~ treasurer of the ~~county~~ issuing the appropriation bonds, or such other officers or agents, including fiscal agents, as the ~~board~~ may determine. After registration, no transfer of an appropriation bond is valid unless made by the registered owner's duly authorized attorney, on the records of the ~~county~~ and similarly noted on the appropriation bond. The ~~county~~ may treat the registered owner as the owner of the appropriation bond for all purposes. Payments of principal and interest shall be by electronic funds transfer, check, share draft, or other draft to the registered owner at the owner's address as it appears on the register, unless the ~~board~~ *Common Council* has otherwise provided. Information in the register is not available for inspection and copying under s. 19.35 (1). The ~~board~~ may make any other provision respecting registration as it considers necessary or desirable.

(b) The ~~board~~ may appoint one or more trustees or fiscal agents for each issue of appropriation bonds. The ~~county~~ *city* treasurer may be designated as the trustee and the sole fiscal agent or as cofiscal agent for any issue of appropriation bonds. Every other fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to conduct banking or trust company business. There may be deposited with a trustee, in a special account, moneys to be used only for the purposes expressly provided in the resolution authorizing the issuance of appropriation bonds or an agreement between the ~~county~~ and the trustee. The ~~board~~ may make other provisions respecting trustees and fiscal agents as the ~~board~~ considers necessary or desirable and may enter into contracts with any trustee or fiscal agent containing such terms, including compensation, and conditions in regard to the trustee or fiscal agent as the ~~board~~ considers necessary or desirable.

SENATE BILL 366*Common council***SECTION 2**

1 (c) If any appropriation bond is destroyed, lost, or stolen, the ~~county~~ ^{city} shall
2 execute and deliver a new appropriation bond, upon filing with the ~~board~~ evidence
3 satisfactory to the ~~board~~ that the appropriation bond has been destroyed, lost, or
4 stolen, upon providing proof of ownership thereof, and upon furnishing the ~~board~~
5 with indemnity satisfactory to it and complying with such other rules of the ~~county~~ ^{city}
6 and paying any expenses that the ~~county~~ may incur. The ~~board~~ shall cancel the
7 appropriation bond surrendered to the ~~county~~.

8 (d) Unless otherwise directed by the ~~board~~, every appropriation bond paid or
9 otherwise retired shall be marked "canceled" and delivered to the ~~county~~ ^{city} treasurer,
10 or to such other fiscal agent as applicable with respect to the appropriation bond, who
11 shall destroy them and deliver a certificate to that effect to the ~~county~~ clerk.

12 (8) APPROPRIATION BONDS AS LEGAL INVESTMENTS. Any of the following may
13 legally invest any sinking funds, moneys, or other funds belonging to them or under
14 their control in any appropriation bonds issued under this section:

15 (a) The state, the investment board, public officers, municipal corporations,
16 political subdivisions, and public bodies.

17 (b) Banks and bankers, savings and loan associations, credit unions, trust
18 companies, savings banks and institutions, investment companies, insurance
19 companies, insurance associations, and other persons carrying on a banking or
20 insurance business.

21 (c) Personal representatives, guardians, trustees, and other fiduciaries.

22 (9) MORAL OBLIGATION PLEDGE. If the ~~board~~ ^{city} considers it necessary or desirable
23 to do so, it may express in a resolution authorizing appropriation bonds its
24 expectation and aspiration to make timely appropriations sufficient to pay the
25 principal and interest due with respect to such appropriation bonds, to make

SENATE BILL 366

deposits into a reserve fund created under sub. (4) (a) with respect to such appropriation bonds, to make payments under any agreement or ancillary arrangement entered into under s. ~~59.86~~⁶²⁰⁶²¹ with respect to such appropriation bonds, to make deposits into any stabilization fund established or continued under s. ~~59.87~~⁶²⁰⁶²² with respect to such appropriation bonds, or to pay related issuance or administrative expenses.

~~(10) PENSION STUDY COMMITTEE.~~ The 2 public members of the pension study committee, created by chapter 405, laws of 1965, shall have at least 10 years of financial experience.

~~(10)~~⁽⁸⁾ ~~(11)~~ ^{city} APPLICABILITY. This section does not apply if a ~~county~~ does not issue appropriation bonds as authorized under sub. (2).

~~SECTION 3. 59.86~~⁶²⁰⁶²¹ of the statutes is created to read:

~~59.86~~⁶²⁰⁶²¹ **Agreements and ancillary arrangements for certain notes and appropriation bonds.** At the time of issuance or in anticipation of the issuance of appropriation bonds under s. ~~59.85~~⁶²⁰⁶²², or general obligation promissory notes under s. 67.12 (12), to pay unfunded prior service liability with respect to an employee retirement system, or at any time thereafter so long as the appropriation bonds or general obligation promissory notes are outstanding, a ~~county~~^{1st class city} having a population ~~of 500,000 or more~~ may enter into agreements or ancillary arrangements relating to the appropriation bonds or general obligation promissory notes, including trust indentures, liquidity facilities, remarketing or dealer agreements, letters of credit, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, and interest exchange agreements. Any payments made or amounts received with respect to any such agreement or ancillary arrangement shall be made from or deposited as provided in the agreement or ancillary arrangement.

SENATE BILL 366

SECTION 4

62622
SECTION 4. 59.87 of the statutes is created to read:

2 59.87 Employee retirement system liability financing in populous
3 counties; additional powers. (1) DEFINITIONS. In this section:
4

5 (a) "Board" means the county board of supervisors in any county.
6

7 (b) "County" means any county having a population of 500,000 or more.
8

9 (c) "Pension funding plan" means a strategic and financial plan related to the
10 payment of all or part of a county's unfunded prior service liability with respect to
11 an employee retirement system.

12 (d) "Trust" means a common law trust organized under the laws of this state,
13 by the county, as settlor, pursuant to a formal, written, declaration of trust.

14 (2) SPECIAL FINANCING ENTITIES, FUNDS, AND ACCOUNTS. (a) To facilitate a pension
15 funding plan and in furtherance thereof, a board may create one or more of the
16 following:
17

18 1. A trust.

19 2. A nonstock corporation under ch. 181.

20 3. A limited liability company under ch. 183.

21 4. A special fund or account of the county.
22

23 (b) An entity described under par. (a) has all of the powers provided to it under
24 applicable law and the documents pursuant to which it is created and established.
25 The powers shall be construed broadly in favor of effectuating the purposes for which
the entity is created. A county may appropriate funds to such entities and to such
funds and accounts, under terms and conditions established by the board, consistent
with the purposes for which they are created and established.

(3) STABILIZATION FUNDS. (a) To facilitate a pension funding plan a board may
establish a stabilization fund. Any such fund may be created as a trust, a special fund

SENATE BILL 366

or account of the ~~county~~^{city} established by a separate resolution or ordinance, or a fund or account created under an authorizing resolution or trust indenture in connection with the authorization and issuance of appropriation bonds under s. 59.85⁶²⁰⁶² or general obligation promissory notes under s. 67.12 (12). A ~~county~~^{city} may appropriate funds for deposit to a stabilization fund established under this subsection.

(b) Moneys in a stabilization fund established under this subsection may be used, subject to annual appropriation by the ~~board~~^{common council}, solely to pay principal or interest on appropriation bonds issued under s. 59.85⁶²⁰⁶² and general obligation promissory notes under s. 67.12 (12) issued in connection with a pension funding plan, for the redemption or repurchase of such appropriation bonds or general obligation promissory notes, to make payments under any agreement or ancillary arrangement entered into under s. 59.86⁶²⁰⁶²¹ with respect to such appropriation bonds or general obligation promissory notes, or to pay annual pension costs other than normal costs.

Moneys on deposit in a stabilization fund may not be subject to any claims, demands, or actions by, or transfers or assignments to, any creditor of the ~~county~~^{city}, any beneficiary of the ~~county's~~^{city's} employee retirement system, or any other person, on terms other than as may be established in the resolution or ordinance creating the stabilization fund. Moneys on deposit in a stabilization fund established under this subsection may be invested and reinvested in the manner directed by the ~~board~~^{common council} or pursuant to delegation by the ~~board~~^{board} as provided under s. 66.0603 (5).

SECTION 5. 66.0602 (3) (d) ~~3~~⁵ of the statutes is created to read:

66.0602 (3) (d) ~~3~~⁵. The limit otherwise applicable under this section does not apply to amounts levied by a ~~county~~^{1st class city} having a population of 500,000 or more for the payment of debt service on appropriation bonds issued under s. 59.85⁶²⁰⁶², including debt service on appropriation bonds issued to fund or refund outstanding appropriation

SENATE BILL 366

SECTION 5

1 bonds of the ~~county~~^{city} to pay related issuance costs or redemption premiums, or to
2 make payments with respect to agreements or ancillary arrangements authorized
3 under s. ~~59.86~~⁶²⁰⁶²¹.

4 SECTION 6. 66.0603 (1m) ^(f) of the statutes is created to read:

5 66.0603 (1m) ^f (a) Subject to s. 67.11 (2) with respect to funds on deposit in a debt
6 service fund for general obligation promissory notes issued under s. 67.12 (12), a
7 ~~county~~^{1st class city} having a population of 500,000 or more, or a person to whom the ~~county~~^{city} has
8 delegated investment authority under sub. (5), may invest and reinvest in the same
9 manner as is authorized for investments and reinvestments under s. 881.01, any of
10 the following:

11 1. Moneys held in any stabilization fund established under s. ~~59.87~~⁶²⁰⁶²² (3).

12 2. Moneys held in a fund or account, including any reserve fund, created in
13 connection with the issuance of appropriation bonds under s. ~~59.85~~⁶²⁰⁶² or general
14 obligation promissory notes under s. 67.12 (12) issued to provide funds for the
15 payment of all or a part of the ~~county's~~^{city's} unfunded prior service liability.

16 3. Moneys appropriated or held by the ~~county~~^{city} to pay debt service on
17 appropriation bonds or general obligation promissory notes under s. 67.12 (12).

18 4. Moneys constituting proceeds of appropriation bonds or general obligation
19 promissory notes described in subd. 2. that are available for investment until they
20 are spent.

21 5. Moneys held in an employee retirement system of the ~~county~~^{city}.

22 SECTION 7. 66.0603 (5) ^{(Intro) and (a) are amended} of the statutes is created to read:

23 66.0603 (5) DELEGATION OF INVESTMENT AUTHORITY IN CONNECTION WITH PENSION
24 FINANCING IN POPULOUS ^{(c) cities and (Intro.) body or 1st class city} COUNTIES. The governing ~~board~~^{body} of a ~~county~~^{city} having a
25 population of 500,000 or more may delegate investment authority over any of the

Please
fix comp.

SENATE BILL 366

1 moneys described in sub. (1m) (e) ^{or (f)} to any of the following persons, which shall be
2 responsible for the general administration and proper operation of the county's ^{or city's}
3 employee retirement system, subject to the ^{governing body's} board's finding that such person has
4 expertise in the field of investments:

5 (a) A public board that is organized for such purpose under ^{or city} county ordinances.

6 (b) A trustee, investment advisor, or investment banking or consulting firm.

7 **SECTION 8.** 67.01 (9) (intro.) of the statutes is amended to read:

8 67.01 (9) (intro.) This chapter is not applicable to appropriation bonds issued
9 by a county under s. 59.85 and, except ss. 67.08 (1), 67.09 and 67.10, is not applicable: ^{or by a 1st class city under p. 62.62}

10 **SECTION 9.** 67.04 (5) (b) 4. of the statutes is amended to read:

11 67.04 (5) (b) 4. To pay unfunded prior service liability contributions under the
12 Wisconsin retirement system, or to pay unfunded prior service liability with respect
13 to an employee retirement system, if all of the net proceeds of the note will be used
14 to pay for such contributions or payments.

15 **SECTION 10.** 67.045 (1) (g) of the statutes is created to read:

16 67.045 (1) (g) The debt is issued by a county having a population of 500,000 or
17 more to pay unfunded prior service liability with respect to an employee retirement
18 system.

19 **SECTION 11.** 67.12 (12) (a) of the statutes is amended to read:

20 67.12 (12) (a) Any municipality may issue promissory notes as evidence of
21 indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not
22 limited to paying any general and current municipal expense, and refunding any
23 municipal obligations, including interest on them. Each note, plus interest if any,
24 shall be repaid within 10 years after the original date of the note, except that notes
25 issued under this section for purposes of ss. 119.498, 145.245 (12m), 281.58, 281.59,

SENATE BILL 366**SECTION 11**

1 281.60, and 281.61, ~~or issued~~ to raise funds to pay a portion of the capital costs of a
2 metropolitan sewerage district, ~~or issued by a county having a population of 500,000~~
3 ~~or more to pay unfunded prior service liability with respect to an employee~~
4 ~~retirement system~~ shall be repaid within 20 years after the original date of the note.

5 (END)

0-NOTE

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1693/?ins
MES.....

1 INS 17-18

2 **SECTION ~~2~~** 67.01 (9) (intro.) of the statutes is amended to read:

3 67.01 **(9)** (intro.) This chapter is not applicable to appropriation bonds issued

4 by a county under s. 59.85~~3~~ or by a 1st class city under s. 62.62~~3~~ and, except ss. 67.08

5 (1), 67.09 and 67.10, is not applicable:

History: 1971 c. 188; 1977 c. 163; 1981 c. 169, 282; 1981 c. 390 s. 252; 1983 a. 24; 1983 a. 189 ss. 74, 75, 329 (7); 1983 a. 207; 1985 a. 29, 187, 225, 332; 1987 a. 197; 1989 a. 56; 1993 a. 399; 1999 a. 150 ss. 621, 672; 2007 a. 115.

6 **SECTION ~~2~~** 67.05 (5) (b) of the statutes is amended to read:

7 67.05 **(5)** (b) No city or village may issue bonds for any purposes other than for
8 water systems, lighting works, gas works, bridges, street lighting, street
9 improvements, street improvement funding, hospitals, airports, harbor
10 improvements, river improvements, breakwaters and protection piers, sewerage,
11 garbage disposal, rubbish or refuse disposal, any combination of sewage, garbage or
12 refuse or rubbish disposal, parks and public grounds, swimming pools and band
13 shells, veterans housing projects, paying the municipality's portion of the cost of
14 abolishing grade crossings, for the construction of police facilities and combined fire
15 and police safety buildings, for the purchase of sites for engine houses, for fire
16 engines and other equipment of the fire department, for construction of engine
17 houses, and for pumps, water mains, reservoirs and all other reasonable facilities for
18 fire protection apparatus or equipment for fire protection, for parking lots or other
19 parking facilities, for school purposes, for libraries, for buildings for the housing of
20 machinery and equipment, for acquiring and developing sites for industry and
21 commerce as will expand the municipal tax base, for financing the cost of
22 low-interest mortgage loans under s. 62.237, for providing financial assistance to
23 blight elimination, slum clearance, community development, redevelopment and

1 urban renewal programs and projects under ss. 66.1105, 66.1301 to 66.1329 and
2 66.1331 to 66.1337, to issue appropriation bonds under s. 62.62 to pay unfunded prior
3 service liability with respect to an employee retirement system, or for University of
4 Wisconsin System college campuses, as defined in s. 36.05 (6m), until the proposition
5 for their issue for the special purpose has been submitted to the electors of the city
6 or village and adopted by a majority vote. Except as provided under sub. (15), if the
7 common council of a city or the village board of a village declares its purpose to raise
8 money by issuing bonds for any purpose other than those specified in this subsection,
9 it shall direct by resolution, which shall be recorded at length in the record of its
10 proceedings, the clerk to call a special election for the purpose of submitting the
11 question of bonding to the city or village electors. If a number of electors of a city or
12 village equal to at least 15% of the votes cast for governor at the last general election
13 in their city or village sign and file a petition conforming to the requirements of s. 8.40
14 with the city or village clerk requesting submission of the resolution, the city or
15 village may not issue bonds for financing the cost of low-interest mortgage loans
16 under s. 62.237 without calling a special election to submit the question of bonding
17 to the city or village electors for their approval.

History: 1971 c. 29; 1971 c. 154 ss. 41, 80; 1971 c. 211, 295; 1973 c. 23; 1975 c. 182, 311, 422; 1977 c. 26; 1977 c. 29 ss. 733, 734, 1654 (8) (c); 1977 c. 427 s. 132; 1979 c. 221, 297, 311; 1981 c. 20, 282, 377, 391; 1983 a. 207 ss. 47 to 52, 93 (5), (6), (7), 95; 1983 a. 236 s. 13; 1983 a. 532 s. 36; 1983 a. 538; 1985 a. 187, 225, 304; 1987 a. 197; 1987 a. 391; 1989 a. 31, 192, 205; 1991 a. 49; 1993 a. 399; 1995 a. 378; 1997 a. 237, 286; 1999 a. 9; 1999 a. 150 ss. 622, 672; 1999 a. 182; 2001 a. 16; 2005 a. 333; 2007 a. 1.

****NOTE: The amendment of this provision is based on s. 67.045 (1) (g), which
* allows a county to issue bonds under s. 67.05 or notes under s. 67.12 (12) without a
referendum. Is this consistent with your intent?

It doesn't seem to me that the referendum requirements would apply anyway
because s. 67.01 (9) (intro.) states that the whole chapter does not apply to bonds issued
under s. 62.62 although bond counsel, presumably, asked for s. 67.045 (1) (g) to be drafted
in 2007 SB 366 even though ch. 67 did not apply to bonds issued under s. 59.85. See s.
67.01 (9) (intro.)

18 **SECTION 3.** 67.12 (12) (a) of the statutes is amended to read:

19 67.12 (12) (a) Any municipality may issue promissory notes as evidence of
20 indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not

1 limited to paying any general and current municipal expense, and refunding any
2 municipal obligations, including interest on them. Each note, plus interest if any,
3 shall be repaid within 10 years after the original date of the note, except that notes
4 issued under this section for purposes of ss. 119.498, 145.245 (12m), 281.58, 281.59,
5 281.60, 281.61, and 292.72 issued to raise funds to pay a portion of the capital costs
6 of a metropolitan sewerage district, or issued by a 1st class city or a county having
7 a population of 500,000 or more, to pay unfunded prior service liability with respect
8 to an employee retirement system, shall be repaid within 20 years after the original
9 date of the note.

NOTE: NOTE: Par. (a) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (i). NOTE:

History: 1971 c. 49, 144; 1971 c. 152 s. 38; 1971 c. 164, 215; 1973 c. 172, 250; 1975 c. 311; 1977 c. 29; 1977 c. 272 s. 98; 1977 c. 418; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 297; 1981 c. 20, 254; 1981 c. 282 ss. 29, 45; 1981 c. 314; 1983 a. 24, 27, 192, 207, 368, 538; 1985 a. 101, 225; 1987 a. 197, 391, 399, 403; 1989 a. 31, 56, 192, 336, 366; 1991 a. 32, 49; 1993 a. 399; 1995 a. 27, 227, 232, 358; 1997 a. 35, 286; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 182; 2001 a. 16; 2003 a. 43; 2007 a. 115, 188; s. 13.92 (2) (i).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1169/PTdn

MES:wlj:jf

January 4, 2007

Date

Jane Pawasarat

Please review this bill very carefully. The bulk of created ~~§ 16.527~~ based on s. 16.527 of the statutes. If there were inconsistencies between your instructions and s. 16.527, I usually modified the draft to be consistent with current law, and I've noted these changes in embedded "**** NOTES." As we've discussed, some of the instructions in your predrafted materials were confusing and didn't make sense to me. I've attempted to make these parts of the draft more readable and have included embedded notes to explain my concerns and questions.

I have a few other general questions about the instructions. Just to be clear, do you consider appropriation obligations issued by Milwaukee County under this bill to be debt that is subject to the constitutional debt limit?

Throughout the bill, the instructions refer to "an employee retirement system established under county ordinances." Is this reference sufficient, or should it refer to chapter 201, laws of 1937?

Marc E. Shovers

Senior Legislative Attorney

Phone: (608) 266-0129

E-mail: marc.shovers@legis.wisconsin.gov

I have raised a number of questions

-1693/1
LRB-1169/PTdn
MES:wlj:jf
Stays

§ 59085, § 59086, and § 59087

Sara Hynek

§ 62062, § 62062, and § 62062 are

the City of
Consistent with § 59087
of the city instead of the Employee Retirement System of the City of Milwaukee in another 1st class city is established
Is this reference OK?

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1693/1dn
MES:wlj:rs

January 22, 2009

Sara Hynek:

Please review this bill very carefully. The bulk of created ss. 62.62, 62.622, and 62.622 are based on ss. 59.85, 59.86, and 59.87 of the statutes. I have raised a number of questions in embedded "**** NOTES."

I have a few other general questions about the instructions. Just to be clear, do you consider appropriation obligations issued by the city of Milwaukee under this bill to be debt that is subject to the constitutional debt limit?

Consistent with s. 59.85, the bill refers to "an employee retirement system of the city" instead of "the Employees Retirement System of the City of Milwaukee" in case another 1st class city is established. Is this reference OK?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Shovers, Marc

From: Hynek, Sara - DOA [Sara.Hynek@Wisconsin.gov]
Sent: Tuesday, February 03, 2009 3:24 PM
To: Shovers, Marc
Subject: RE: LRB Draft: 09-1693/1 Populous city pension obligation bonding

No problem. I think I emailed you that we will not address the constitutional question -- that is, we would not add language to make it subject to the limit. So I think the draft should be ok? Thanks!

Sara Hynek
Dept. of Administration
608-266-1923

From: Shovers, Marc [mailto:Marc.Shovers@legis.wisconsin.gov]
Sent: Tuesday, February 03, 2009 3:23 PM
To: Hynek, Sara - DOA
Subject: RE: LRB Draft: 09-1693/1 Populous city pension obligation bonding

Hi Sara:

I don't know if I ever addressed your questions so, if not, here are the answers. I'm redrafting -1693 just to remove the "*****Notes", and I found this email in the file and there was no indication I ever responded. Sorry about that.

Anyway, with regard to page 3, we don't need to refer back to the definition of 1st class city -- the definition in s. 62.05 is good enough. I added the reference to "1st class" city on page 13, line 9, because the definitions of "1st class city" were in ss. 62.62 and 62.622, but not in s. 62.621, so I used the whole phrase "1st class city" on page 13, line 9.

Marc

Marc E. Shovers

Managing Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-6948
e-mail: marc.shovers@legis.wisconsin.gov

From: Hynek, Sara - DOA [mailto:Sara.Hynek@Wisconsin.gov]
Sent: Friday, January 23, 2009 5:42 PM
To: Shovers, Marc
Subject: FW: LRB Draft: 09-1693/1 Populous city pension obligation bonding

Hi Marc –

I'm going to check on this constitutional debt limit issue – thank you for raising it. I'll get back to you.

In response to your embedded questions:

On page 7, I agree, it should be "president of the common council."

On page 18, yes, I see that they excepted the county appropriation bonds from referenda requirements, so we should do that for the city also. I see your point about the language not being necessary, though.

A couple other little notes, the answers to which may just be "that's how we do it."

On page 3, we say "city" means a 1st class city. Do we need to reference back to a definition of 1st class city?

Also, on page 13, line 9, I don't know if you need the reference to "1st class" city?

Sara Hynek
Dept. of Administration
608-266-1923

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Thursday, January 22, 2009 4:33 PM
To: Hynek, Sara - DOA
Cc: Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-1693/1 Populous city pension obligation bonding

Following is the PDF version of draft 09-1693/1.